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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/351,420	07/09/1999	BRIAN VON HERZEN PH.D		9695

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EXAMINER

NGUYEN, KIMNHUNG T

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/351,420

Applicant(s)

VON HERZEN PH.D ET AL.

Examiner

Kimnhung Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11-8-02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-29 is/are allowed.
- 6) ☒ Claim(s) 1-25, 27-28 and 30-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This Application has been examined. The claims 1-51 are pending. The examination results are as following.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-11, 15-21, 25, 30 and 34-35 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Guritz (US patent 5,575,554 cited by applicant).
4. Regarding claims 1, 15-16, 25, 30, 35 and 49, Guritz discloses in figures 1-4 an illuminated wearable article (10) comprising a regular two-dimensional array of pixel display elements (26) having a front light-emitting side (a first bank) and an opposing back side (a second bank, see figure 1); a graphics controller (12) physical coupled to and electrically connected to the array; a power source (114, see figures 5-6, column 8, lines 44-60, column); a fastener physical coupled to the back side of the array (see column 22, lines 56-65, column 26, lines 1-17); wherein the control circuit has a non-volatile store for the user-selected sequence of the pattern (the storage system does not lose the data, see column 9, lines 24-27); and the programming connector physically coupled to the array ( plurality of lamps) and to the graphics controller (see column 10, lines 3-11); and wherein the power source and graphics controller are integrally housed with each other inside the case.

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5. Regarding claims 5-11, 21 and 34, Guritz further teaches that a common substrate are mounted (see column 6, lines 26-31); and wherein the substrate is a printed circuit board (20, 32, see column 6, lines 9-15); wherein the graphics controller is a control circuit (12 see figure 1).

Furthermore, Guritz also discloses that illuminated wearable comprising graphics controller and couplings that conduct current between the power source and any resistor components (see figure 10, column 23, lines 28-32).

6. Regarding claims 17-20, Guritz discloses that the programming connector comprises a light responsive transducer (because the lamps can attached by electrically conductive, see column 6, lines 44-48). Guritz further discloses that the pixel display elements are light-emitting diodes (see figures 40-41 column 26, lines 18-49).

7. Claims 22-24 is rejected under 35 U.S.C. 102(b) as being anticipated by Janney (US patent 6,201,525).

Janney et al. disclose an illuminated wearable article (see figure 5, column 2, lines 31-34) comprising a means for displaying a message (see column 2, lines 43-65); means for driving (33, figure 3) the display means to repeatedly scroll (35) the user selected message across the display means (see column 2, lines 57-66); means for power the display means (51), the selection means (buttons 20, 22, 24, 26, 28), and the driving means (33); and means for attaching the display means (10, see figure 5, column 4, lines 40-44), and the driving means (33, figure 3), and the power means (12) as unit to clothing (12) (see figure 5, column 4, lines 39-46).

Janney et al. disclose an illuminated wearable article (see figure 5, column 2, lines 31-34) comprising a means for displaying a message (see column 2, lines 43-65); means for driving (33, figure 3) the display means to repeatedly scroll (35) the user selected message across the display

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means (see column 2, lines 57-66); means for power the display means (51), the selection means (buttons 20, 22, 24, 26, 28), and the driving means (33); and means for attaching the display means (10, see figure 5, column 4, lines 40-44), and the driving means (33, figure 3), and the power means (12) as unit to clothing (12) (see figure 5, column 4, lines 39-46); and means (memory 41) for storing for selection an alphanumeric character set (alphabet), means for selecting the message as a sequence of patterns (see column 2, lines 57-66); and members of an alphanumeric character set (alphabet).

8. Claims 2-4, 12-14, 31-33, 36-48 and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guritz (US patent 5,575,554) in view of Janney (US patent 6,201,525) and in view of Ryan, Jr. et al. (US patent 6,028,597).

Guritz discloses in figures 1-4 an illuminated wearable article (10) comprising a regular two-dimensional array of pixel display elements (26) having a front light-emitting side and an opposing back side (see figure 1); a graphics controller (12) physically fastened and electrically coupled to the array; a power source physically fastened and electrically coupled to the graphics controller and the array; (114, see figures 5-6, column 8, lines 44-60, column); a fastener physically fastened to the back side of the array (see column 22, lines 56-65, column 26, lines 1-17). He discloses the wherein the first (26) and second arrays (26) are controlled by a single graphic (20, 32), the case is two-side with the two arrays facing in opposite directions (see figure 1), he discloses the article comprising third and fourth with the two dimensional arrays (see figure 1). However, Guritz does not disclose that the arrays has a width between 1 and 5, or 1.1 and 2.0, and approximately 1.5 times the character pitch; and the control circuit is programmed to select members of an alphanumeric character set (alphabet); and the brightness of each pixel is

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controlled by pulse-width modulation; and the article having a volume of less than 20 milliliters and the case is shaped like a rectangular prism.

9. Regarding the claims 2-4, 31-33 and 50-51, it would have been obvious for Guritz's system to have the arrays has a width between 1 and 5, or 1.1 and 2.0, and approximately 1.5 times the character pitch, and the article having a volume of less than 20 milliliters and the case is shaped like a rectangular prism as claimed since such a modification would have involved a mere change in the range or shape of the system. A change in range or shape is generally recognized as being within the level of ordinary skill in the art.

See In re Rose, 105 USPQ 237 (CCPA 1995) and

In re Reven, 156 USPQ 679 (CCPA 1968).

10. Regarding claims 12-14 and 36-48, Janney discloses the control circuit is programmed to select of members of an alphanumeric (letters of alphabet) (see column 3, lines 29-32). Ryan discloses a brightness of each pixel display element and pulwidth modulated (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Janney and Ryan as discussed above in the device of Guritz's system for producing the claimed invention because this would allow the user to scroll backward through the table and enter a chosen character at a display portion, and animating an image of the character responsive to the characteristics (see abstract).

*Allowable Subject Matter*

11. Claims 26-29 are allowed.

12. The following is a statement of reasons for the indication of allowable subject matter:

The present invention comprises a method of programming a message being scrolled on the display comprising a sequence of pattern or characters into a wearable ornamental comprising a activating by the buttons. The closest prior art, Janney (6,201,525) shows a similar system which also discloses a moving alphanumeric messages are programmed by manipulation of five buttons related to the wearable ornamental display. However, Janney fails to teach the steps of a activating a third button combination comprised of clicking at least one of the buttons, while in the edit mode to toggle from the edit mode to the run mode, thereby causing the replacement of the first character by the first replacement character in the scrolled message being display.

*Response to arguments*

13. Applicant's argument filed on 11-8-02 has been fully considered but they are not persuasive.

Applicant's argument that Guritz does not disclose a regular two-dimensional array of the pixel display elements. However, this argument is nor persuasive due to the teaching of Guritz as disclosed in figure 1 above with a plurality of elements 26 of the two hands (left-right hands). That is the two-dimensional array of the pixel display elements. Therefore, this rejection is maintained.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimnhung Nguyen whose telephone number (703) 308-0425.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **RICHARD A HJERPE** can be reached on (703) 305-4709.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D. C. 20231

**Or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only).**

Hand-delivery response should be brought to: Crystal Park II, 2121 Crystal Drive, Arlington, VA Sixth Floor (Receptionist).



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Kimnhung Nguyen  
January 23, 2003



TECHNOLOGY CENTER 2600  
CUSTOMER SERVICE OFFICE  
JAN 23 2003